



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2018
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The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition No.29511 of 2017
and
W.M.P.No.31816 of 2017

Er.K.Sumathi

...Petitioner

Vs.

1. The Chairman and Managing Director,
Tamil Nadu Electricity Generation and
Distribution Corporation,
NPKRR Maaligai 144,
Anna Salai, Chennai - 600 002.
2. The Chief Engineer,
North Chennai Thermal Power Station-1,
Chennai - 600 120.
3. The Superintending Engineer/Purchase and
Administration (In charge),
North Chennai Thermal Power Station - Stage -1,
Chennai - 600 120.
4. The Executive Engineer (Operations and Efficiency)
North Chennai Thermal Power Station -1,
Chennai - 600 120.
5. The Assistant Executive Engineer,
Operation and Efficiency,
North Chennai Thermal Power Station -1,
Chennai - 600 120.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned Memo No.10095/SE/P&A/NCTPS-I/SAO/Adm.3/A.1/F.Confi/2017, dated 02.11.2017 made by the third respondent against the petitioner and to quash the same and consequently, to direct the first respondent to ensure that the petitioner is allowed to rejoin duty in a Department other than Operators Division.



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For Petitioner: Mrs.K.Sumathi,
party-appearing in person

For Respondent: Mr.P.R.Dhilip Kumar
Standing Counsel

O R D E R

Heard Mrs.K.Sumathi, the petitioner-appearing in person and Mr.P.R.Dhilip Kumar, the learned Standing Counsel appearing on behalf of the respondents.

2.It appears that the petitioner, while working as an Assistant Engineer (Mechanical) in Operations and Efficiency, North Chennai Thermal Power Station was put under suspension for defiance of the order of the Official Superior. Challenging the said suspension order, the petitioner has filed this Writ Petition to quash the same and to allow her to rejoin in duty.

3.Counter affidavit has been filed, indicating thereunder that the petitioner was looking after Turbine 'o' Metre, and inspite of a written order issued to her for change of her location to the Unit Control Board as Turbine Operator on 04.10.2017, she did not obey the order and proceeded on medical leave from 06.10.2017 to 21.10.2017 and thereafter, instead of reporting duty on 22.10.2017, reported duty on 24.10.2017 with fitness certificate, dated 22.10.2017, and also thereafter, though written order issued to her on 26.07.2017, to look after the shift duty, she refused to report to the duty. So also, the direction given to her to appear before the Medical Board, she did not comply. For the aforesaid defiance of the order of the Superior, she was put under suspension, which is permissible under Regulation 9 (Suspension) of the Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations read with Tamil Nadu Electricity (Reorganization and Reforms) Transfer Scheme 2010, which empowers the respondents to suspend in a contemplation of a disciplinary proceedings, and as such, the Writ Petition challenging the same is devoid of merits. During the course of hearing, the petitioner, who appeared in person submits that she has been harassed and for no reason, she is put under suspension by the respondents, and the same is tainted with mala fide and solely to harass her. Therefore, she prays to grant the relief aforesaid.



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4. The petitioner has appeared in person before this Court today and filed a detailed rejoinder, inter alia contending that the impugned order of suspension is unsustainable in law as the same is in violation of principles of natural justice, and also made the following prayers :-

i) To regularize the service with all benefits and restore her to regular duty.

ii) To treat the period of absence from duty on suspension as duty with full pay and increment.

iii) To exonerate me on merit with full honours and all incremental dues be paid.

iv) Any money being deducted illegally by TNEB be issue.

v) The pay illegally withheld for the month of June 2017 and 16 day pay in October be issued in full.

vi) Without prejudiced to the rights of the petitioner and payback wages or else continue the trial till a proper judgement is arrived.

5. The learned Standing Counsel for the respondents would submit that, suspension, though cannot be said to be illegal and arbitrary, and can very well be made in contemplation of a disciplinary proceedings, but, in the meanwhile, the respondents have withdrawn the suspension order and passed an order of reinstatement, still the petitioner has not joined. As such, he submits that nothing remains in this Writ Petition to decide, inasmuch as, the question of regularization will arise after her joining in duty, and also, if any disciplinary proceeding is drawn only at the disposal of the same.

6. When the aforesaid matter was brought to the notice of the petitioner, she expressed her ignorance about the withdrawal of the suspension and submits that, she will join in duty, if the suspension order has been revoked, but the order be served on her. The copy of the aforesaid order is served on her by the learned Standing Counsel for the respondents in the Court today.

7. In view of the fact that the order of suspension has already been revoked and nothing is before this Court indicating that the disciplinary proceeding is pending against the petitioner, this Court disposes of this Writ Petition with a direction to the petitioner to join duty within 10 days hence and make a representation, if so desire, before the third respondent ventilating her grievance to regularize the period of



suspension and release the salary and other benefits, as she has claimed in the interim application filed today, and if such representation is received by the third respondent, he shall consider the same taking into consideration the overall facts and circumstances of the case, so also in accordance with law within a period of three weeks from the date of receipt of such representation. With the afore said order, the Writ Petition stands disposed of. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

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North Chennai Thermal Power Station -1,
Chennai - 600 120.

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No.48995

Writ Petition No.29511 of 2017

CP(CO)
BM 25/07/2018